

ARKANSAS COURT OF APPEALS
NOT DESIGNATED FOR PUBLICATION
WENDELL L. GRIFFEN, JUDGE

DIVISION I

CA05-1154

ARKANSAS DEPARTMENT OF
HEALTH, ET AL.
APPELLANTS

May 31, 2006
AN APPEAL FROM ARKANSAS
WORKERS' COMPENSATION
COMMISSION [No. F208147]

V.

ELTON W. COTTON
APPELLEE

AFFIRMED

The Arkansas Department of Health and its workers' compensation insurance provider, Public Employee Claims Division, appeal from a decision of the Workers' Compensation Commission, finding that appellee Elton Cotton suffered a compensable injury to his cervical spine on or about July 2, 2002. Appellants argue that the Commission's decision is not supported by substantial evidence. We affirm.

Appellee was a plumbing inspector for the Arkansas Department of Health and had been so employed for nineteen years. At a hearing before the administrative law judge (ALJ), appellee testified:

I was taking some pictures and I was in the back of the house which had a low porch under which there was a leak from the bathroom. . . . I was taking pictures of the leak and I bent down and it just happened. I felt something in my neck. Yes, I held my neck in some particular way, I was kind of hunkered down and I was kind of straining my neck. I had to get down real low because the porch was about two feet high and there was water coming down the side of the house and I wanted to get pictures of the leak. That was when I noticed I had a crick in my neck, with pain. Yes, I've also had some problems with my left arm including a sometimes loss of feeling. I think it was the night after I hurt my neck that my arm began to bother me and the next day or so

my hands would go to sleep.

Appellee testified that he never had any problems with his neck prior to this incident; however, he had problems with ear wax in the past, requiring him to have his ears vacuumed out, and a blackout episode in March 2002.

Appellee reported the incident to a supervisor the next day, who told him to see a doctor. He presented to Dr. Mark Vice on July 15, 2002. Appellee testified that he could not see Dr. Vice earlier because Dr. Vice was on vacation. Dr. Vice's notes on July 15, 2002, indicate that appellee had complete resolution of the pain and headache he had when he presented to St. Vincent's on June 12, 2002, and that he did not have neck pain with that episode. An off-work slip dated the same day stated, "The above patient has neck pain with radiculopathy. This is due to a job related injury/problem. He will have further testing. He should be off work until further notice." In another exam on July 23, 2002, Dr. Vice stated that appellee's neck showed arthritis but no ruptured disc. An impression of an MRI of appellee's cervical spine was of mild to moderate cervical spondylosis. Dr. Vice then referred appellee to neurologist Kathy Chenault.

Appellee presented to Dr. Chenault on August 16, 2002. Her initial diagnosis was of occipital neuralgia and syncope. A nerve conduction study performed on appellee's left arm indicated a mild chronic left ulnar neuropathy at the elbow and no electrophysiological evidence for cervical radiculopathy. On an August 30, 2002, follow-up visit, Dr. Chenault diagnosed appellee with cervical muscle spasms and syncope.

Appellee returned to Dr. Vice's office on September 3, 2002. Dr. Vice's notes indicate that appellee felt "like he has had the run around from the neurologist" and wanted a second opinion. Dr. Vice's diagnosis on this day included polyneuropathy. Notes on September 23, 2002, showed that appellee still had neck pain. In a letter on September 24,

2002, Dr. Vice opined that appellee's neck pain and arm numbness were related to his on the job injury.

Appellee presented to neurologist Naim Haddad on October 2, 2002. Dr. Haddad diagnosed appellee with cervical spondylosis with possible C7 or 8 radiculopathies. He prescribed Bextra and scheduled future tests. On October 30, 2002, Dr. Haddad noted that appellee's EEG was normal, but an EMG/NCS showed mild chronic reinnervation changes suggesting a mild chronic left C8/T1 radiculopathy. He added Flexeril, a muscle relaxant, to his medications. Appellee returned to Dr. Vice on November 6, 2002, who instructed appellee to remain off work until further notice.

Appellee presented to Dr. James Adametz on February 11, 2003, who noted that appellee had slight decreased range of motion of the cervical spine. Dr. Adametz opined that appellee had cervical spondylosis but could not tell how severe his condition was. He prescribed medication and physical therapy. Appellee returned to Dr. Vice on March 11, 2003, to discuss the visit with Dr. Adametz. Dr. Vice concurred with appellee's opinion that he could not return to work.

Appellee presented to neurosurgeon Richard Jordan on April 23, 2003, who noted that appellee's MRI showed cervical spondylosis at multiple levels, with the most disc space narrowing at C4/5 and C5/6. Dr. Jordan also noted a tight and tender left anterior scalene and suggested a diagnosis of left anterior scalene syndrome. He scheduled a left anterior scalenotomy for April 30, 2003, which he hoped would help with appellee's left upper extremity symptoms. Another MRI on June 2, 2003, showed a mild HNP at C5/6 with facet arthropathy at C5/6 and C6/7. In a letter to appellee's counsel on July 15, 2003, Dr. Jordan stated:

On his initial evaluation he had marked left anterior scalene spasm and subjective weakness in the biceps and triceps on the left. His cervical MRI showed multilevel

cervical spondylosis from C4 to C7 and an HNP at C5/6. We discussed several options to include a cervical epidural steroid injection, a left anterior scalenotomy, and an anterior cervical discectomy with fusion.

We proceeded with the scalenotomy on April 30, 2003. He returned June 03, 2003 and reports he has had reduction in the arm symptoms but continues to have daily neck pain, bilateral shoulder pain, and headache. We offered the cervical fusion; however, now he has not been able to work since the incident last July and has no coverage for another procedure.

Mr. Cotton had no prior history of neck or arm problems prior to the incident at work in July of 2002.

It is within a degree of medical certainty that the treatment for his neck and left arm problems are a result of the incident while at his work in July of 2002. I do not feel that he has reached maximum medical improvement and will see him in follow-up in the near future. He is still taking muscle relaxants, anti-inflammatories and pain medications.

After recounting appellee's medical history, the ALJ found that appellee suffered a compensable injury to his cervical spine. The full Commission affirmed and adopted the opinion of the ALJ. For their sole point on appeal, appellants argue that the Commission's finding that appellee suffered a compensable injury to his cervical spine is not supported by substantial evidence. Specifically, they contend that any injuries suffered by appellee were not a result of any incident on the job, but rather preexisting conditions.

In reviewing decisions from the Workers' Compensation Commission, we view the evidence and all reasonable inferences deducible therefrom in the light most favorable to the Commission's decision and affirm if that decision is supported by substantial evidence. *Smith v. City of Ft. Smith*, 84 Ark. App. 430, 143 S.W.3d 593 (2004). Substantial evidence is evidence that a reasonable mind might accept as adequate to support a conclusion. *Williams v. Prostaff Temps.*, 336 Ark. 510, 988 S.W.2d 1 (1999). The issue is not whether the reviewing court might have reached a different result from the Commission; if reasonable minds could reach the result found by the Commission, we must affirm the decision. *Minnesota Mining & Mfg. v. Baker*, 337 Ark. 94, 989 S.W.2d 151 (1999). Normally, we only

review the findings of the Commission and not those of the ALJ. *Logan County v. McDonald*, ___ Ark. App. ___, ___ S.W.3d ___ (Apr. 6, 2005). However, when the Commission adopts the conclusions of the ALJ, as it is authorized to do, we consider both the decision of the Commission and the decision of the ALJ. *Death & Permanent Total Disability Trust Fund v. Branum*, 82 Ark. App. 338, 107 S.W.3d 876 (2003).

To receive workers' compensation benefits for a specific-incident injury, a claimant must establish (1) that the injury arose out of and in the course of the employment, (2) that the injury caused internal or external harm to the body that required medical services, (3) that the injury is established by medical evidence supported by objective findings, and (4) that the injury was caused by a specific incident and identifiable by the time and place of the occurrence. Ark. Code Ann. § 11-9-102(4) (Supp. 2005). Compensation must be denied if the claimant fails to prove any one of these requirements by a preponderance of the evidence. Ark. Code Ann. § 11-9-402(4)(E); *Mikel v. Engineering Specialty Plastics*, 56 Ark. App. 126, 938 S.W.2d 876 (1997).

In contending that the Commission erred in finding that appellee sustained a compensable neck injury, appellants heavily rely on entries from *Dorland's Illustrated Medical Dictionary* (28th ed. 1994).¹ They argue that appellee suffers from degenerative diseases that could not have been caused by someone straining his or her neck while taking pictures. However, it is the Commission's duty to weigh medical evidence and, if such evidence is conflicting, its resolution is a question of fact for the Commission. *Clairday v.*

¹Appellants cite the entries for "cervical spondylosis," "degenerative joint disease affecting the cervical vertebrae, intervertebral disks, and surrounding ligaments and connective tissue, sometimes with pain or paresthesia radiating down the arms as a result of pressure on the nerve"; and "scalene syndrome," "a type of thoracic outlet syndrome caused by compression of the nerves and vessels between a cervical rib and the scalenous anterior muscle" Appellants' Brief at Arg. 2 (quoting *Dorland's Illustrated Medical Dictionary* 1564, 1639 (28th ed. 1994)).

The Lilly Co., ___ Ark. App. ___, ___ S.W.3d ___ (Apr. 19, 2006); *Searcy Indus. Laundry, Inc. v. Ferren*, 82 Ark. App. 69, 110 S.W.3d 306 (2003). The Commission's resolution of the medical evidence has the force and effect of a jury verdict. *Clarday v. The Lilly Co.*, *supra*; *Jim Walter Homes v. Beard*, 82 Ark. App. 607, 120 S.W.3d 160 (2003).

The Commission had before it medical records indicating that appellee had no problems with his neck prior to the July 2002 incident and medical opinions from Drs. Vice and Chenault stating that appellant's neck pain was a result of the July 2002 incident. To the extent that appellants argue that appellee presented no objective findings attributing appellee's injury to his job, it is well settled that objective findings are only necessary to establish the existence and extent of an injury, not the cause of the injury. *See Wal-Mart Stores v. VanWagner*, 337 Ark. 443, 990 S.W.2d 522 (1999).

The Commission's opinion that appellee suffered a compensable injury on July 2, 2002, is supported by substantial evidence. We affirm.

Affirmed.

GLADWIN and NEAL, JJ., agree.